

SECOND REGULAR SESSION

SENATE BILL NO. 1011

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time January 24, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4476S.011

AN ACT

To repeal sections 311.265, 311.332, 311.334, 311.335, 311.336, 311.338, and 311.630, RSMo, and to enact in lieu thereof three new sections relating to liquor control, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 311.265, 311.332, 311.334, 311.335, 311.336, 311.338, 2 and 311.630, RSMo, are repealed and three new sections enacted in lieu thereof, 3 to be known as sections 311.265, 311.332, and 311.630, to read as follows:

311.265. 1. When a retailer licensed under chapter 311 or chapter 312, 2 RSMo, is delinquent beyond the permissible ordinary commercial credit period, 3 the wholesaler shall notify the supervisor of liquor control in writing of the debt 4 and no new or renewal license shall be issued to the retailer until the reported 5 debt is satisfied. The wholesaler shall immediately notify the supervisor of liquor 6 control in writing when the debt is satisfied. As used in this section, the term 7 "retailer" shall include an individual, corporation, partnership or limited liability 8 company, all officers and directors of such person or entity and all stockholders 9 owning, legally or beneficially, directly or indirectly, ten percent or more of the 10 stock of such person or entity.

11 **2. No new license shall be issued to a retail premises that was**
12 **previously occupied by a retailer that is currently delinquent beyond**
13 **the permissible ordinary commercial credit period. Applicants**
14 **applying for a new license at a previously licensed retail premises shall**
15 **provide verification that the previous retailer is not indebted to**
16 **licensed wholesalers.**

311.332. 1. [Except as provided in subsections 2 and 3 of this section, it 2 shall be unlawful for any wholesaler licensed to sell intoxicating liquor and wine

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 containing alcohol in excess of five percent by weight to persons duly licensed to
4 sell such intoxicating liquor and wine at retail, to discriminate between retailers
5 or in favor of or against any retailer or group of retailers, directly or indirectly,
6 in price, in discounts for time of payment, or in discounts on quantity of
7 merchandise sold, or to grant directly or indirectly any discount, rebate, free
8 goods, allowance or other inducement, excepting a discount not in excess of one
9 percent for quantity of liquor and wine, and a discount not in excess of one
10 percent for payment on or before a certain date. The delivery of manufacturer
11 rebate coupons by wholesalers to retailers shall not be a violation of this
12 subsection.

13 2. Except as provided in subsection 3 of this section, any wholesaler
14 licensed to sell intoxicating liquor and wine containing alcohol in excess of five
15 percent by weight to persons duly licensed to sell such intoxicating liquor and
16 wine at retail may offer a price reduction of not more than four percent of the
17 wholesaler's price schedule for any brand, age, proof, and size bottle or
18 package. Such price reduction shall apply for a thirty-day period, shall not be
19 offered by any wholesaler more than three times in any calendar year, and shall
20 not be offered during successive months.

21 3. Any wholesaler licensed to sell intoxicating liquor and wine containing
22 alcohol in excess of five percent by weight to persons duly licensed to sell such
23 intoxicating liquor and wine at retail may offer a price reduction of more than
24 four percent of the scheduled price on close-out merchandise. "Close-out
25 merchandise" is any item which has been in the wholesaler's inventory for more
26 than six months. The price of close-out merchandise may be decreased, but shall
27 not be increased, monthly for up to and including twelve consecutive months. A
28 wholesaler shall not purchase any item of intoxicating liquor or wine of the same
29 year and vintage the wholesaler has classified as close-out merchandise during
30 the period of such classification. A wholesaler shall not purchase, sell, or offer
31 to sell any item of intoxicating liquor or wine of the same year and vintage the
32 wholesaler has classified as close-out merchandise until twenty-four months have
33 elapsed since the wholesaler's last offer to sell the item as close-out merchandise.

34 4.] Manufacturers or wholesalers shall be permitted to donate or deliver
35 or cause to be delivered beer, wine, brandy, or nonintoxicating beer for nonresale
36 purposes to any unlicensed person or any licensed retail dealer who is a
37 charitable or religious organization as defined in section 313.005, RSMo, or
38 educational institution, at any location or licensed premises, provided, such beer,

39 wine, brandy, or nonintoxicating beer is unrelated to the organization's or
40 institution's licensed retail operation. A charge for admission to an event or
41 activity at which beer, wine, brandy, or nonintoxicating beer is available without
42 separate charge shall not constitute resale for the purposes of this
43 subsection. [Wine used in religious ceremonies may be sold by wholesalers to a
44 religious organization as defined in section 313.005, RSMo. Any manufacturer
45 or wholesaler providing nonresale items shall keep a record of any deliveries
46 made pursuant to this subsection.]

47 [5.] **2.** Manufacturers, wholesalers, retailers and unlicensed persons may
48 donate wine in the original package to a charitable or religious organization as
49 defined in section 313.005, RSMo, or educational institution for the sole purpose
50 of being auctioned by the organization or institution for fund-raising purposes,
51 provided the auction takes place on a retail-licensed premises and all proceeds
52 from the sale go into a fund of an organization or institution that is unrelated to
53 any licensed retail operation.

54 **3. Any organization or institution that holds an event or activity**
55 **in accordance with this section shall report to the supervisor of alcohol**
56 **and control the location of each event or activity three business days**
57 **in advance. The report of each event or activity shall include**
58 **permission from the property owner and city, a description of the**
59 **premises, and the date the event or activity will be held.**

60 **4. Any manufacturer or wholesaler providing nonresale items**
61 **shall keep a record of any deliveries made under this section.**

62 **5. Wine used in religious ceremonies may be sold by wholesalers**
63 **to a religious organization as defined in section 313.005, RSMo.**

311.630. 1. The supervisor of alcohol and tobacco control and employees
2 to be selected and designated as peace officers by the supervisor of alcohol and
3 tobacco control are hereby declared to be peace officers of the state of Missouri,
4 with full power and authority to make arrests and searches and seizures only for
5 violations of the provisions of chapters 311 and 312, RSMo, relating to
6 intoxicating liquors and nonintoxicating beer, and sections 407.924 to 407.934,
7 RSMo, relating to tobacco products, and to serve any process connected with the
8 enforcement of such laws. The peace officers so designated shall have been
9 previously appointed and qualified under the provisions of section 311.620 and
10 shall be required to hold a valid peace officer license pursuant to chapter 590,
11 RSMo.

12 **2. In addition to the powers and authority granted under**
13 **subsection 1 of this section, employees selected and designated as peace**
14 **officers by the supervisor of the division of alcohol and tobacco control**
15 **under subsection 1 shall also have full power and authority to make**
16 **arrests, searches, and seizures:**

17 **(1) For any criminal offense, except criminal gambling offenses**
18 **under chapter 572, RSMo, witnessed during an investigation under this**
19 **chapter or chapter 312, RSMo, or sections 407.924 to 407.934, RSMo, and**
20 **in such cases, the peace officer shall notify the sheriff or police**
21 **department prior to making an arrest under this subsection, except**
22 **when there are life threatening circumstances, in which case, the peace**
23 **officer shall immediately notify the sheriff or police department of the**
24 **respective county or city after making such an arrest; or**

25 **(2) In connection with any offense when acting at the request of**
26 **the sheriff of any county or the chief of police of any municipality, or**
27 **their designated representatives.**

28 **3.** The supervisor of alcohol and tobacco control shall furnish such peace
29 officers with credentials showing their authority and a special badge, which they
30 shall carry on their person at all times while on duty. The names of the peace
31 officers so designated shall be made a matter of public record in the office of the
32 supervisor of alcohol and tobacco control.

33 **[3.] 4.** All fees for the arrest and transportation of persons arrested and
34 for the service of writs and process shall be the same as provided by law in
35 criminal proceedings and shall be taxed as costs.

 [311.334. No intoxicating liquor and wine of any kind shall
2 be sold by a wholesaler to a retailer duly licensed to sell
3 intoxicating liquor and wine at retail, or purchased by a wholesaler
4 for a retailer or by a retailer through a wholesaler, unless a
5 schedule as provided by this section shall be filed by the wholesaler
6 with the supervisor of liquor control and is then in effect. The
7 schedule shall be in writing, duly verified and filed in the number
8 of copies and in such form as required by the supervisor, and shall
9 contain with respect to each item thereon the exact brand or trade
10 name, capacity of package, nature of contents, age and proof, the
11 per bottle and per case price to retailers, the number of bottles
12 contained in each case, and the size thereof, which prices shall be

13 individual for each item, and not in "combination" with any other
14 item or items, the discounts for quantity, if any, and the discounts
15 for time of payment, if any.]

2 [311.335. 1. Any wholesaler licensed to sell intoxicating
3 liquor and wine containing alcohol in excess of five percent by
4 weight pursuant to chapter 311 shall ship and deliver intoxicating
5 liquor and wine to a retailer in the amount for which the scheduled
6 price set forth on the invoice is in effect.

7 2. Such wholesaler licensed to sell intoxicating liquor and
8 wine containing alcohol in excess of five percent by weight shall not
9 take an order for delivery in a month subsequent to the month in
10 which the order is taken, provided that on and after the date on
11 which amended price schedules are filed with the supervisor of
12 liquor control, orders may be taken for delivery in the following
13 month at the price in effect for that following month and provided,
14 further, that for any order received within the last three business
15 days of a month, the wholesaler may, with the consent of the
16 retailer placing such order or upon the request of the retailer
17 placing such order, deliver such order to the retailer within the
18 first three business days of the month following the month in which
19 the order was received by such wholesaler at the price in effect for
20 the month in which the order was placed. Such order received
21 within the last three business days of a month and delivered within
22 the first three business days of the subsequent month shall be
23 known as a "delayed shipment". A delayed shipment shall be
24 deemed delivered on the last business day of the month in which
25 the order was received for purposes of implementing and enforcing
26 rules and regulations of the supervisor of liquor control relating to
27 invoicing, discounts and ordinary commercial credit terms.

28 3. Any wholesaler licensed to sell intoxicating liquor or
29 wine containing alcohol in excess of five percent by weight violating
30 any provision of this section shall be subject to, and punished
pursuant to, the penalties and provisions of section 311.680.]

2 [311.336. Each such schedule shall be filed on or before the
3 tenth day of each month, and the prices and discounts therein set
forth shall become effective on the first day of the calendar month

4 following the filing thereof, and shall be in effect for and during
5 such calendar month. Within ten days after the filing of such
6 schedule the supervisor shall make all of such schedules or a
7 composite thereof available for inspection by all wholesale
8 licensees. Within three days, excluding Sundays, after such
9 inspection is provided for, a wholesaler may amend his filed
10 schedule for sales to a retailer, or purchase for a retailer or by a
11 retailer through a wholesaler in order to meet lower competing
12 prices and discounts for liquor or wine of the same brand and trade
13 name and of like age and quality, filed pursuant to this section or
14 section 311.334 by any licensee selling such brand; provided,
15 however, such amended prices may not be lower and discounts not
16 greater than those to be met. Any amended schedule so filed shall
17 become effective on the first day of the calendar month following
18 the filing thereof, and shall be in effect for and during such
19 calendar month. No brand of liquor or wine shall be sold or
20 purchased for a retailer by a wholesaler or by a retailer through a
21 wholesaler except at the price or prices then in effect according to
22 the wholesaler's filed schedule, and no discount shall be granted
23 except as set forth in the schedule then in effect. All schedules
24 filed shall be subject to public inspection from the time that they
25 are required to be made available for inspection by licensees and
26 shall not be in any manner considered confidential. Each
27 wholesaler shall retain in his licensed premises for inspection by
28 licensees a copy of his filed schedules then in effect. The
29 supervisor of liquor control may make such rules and regulations
30 as shall be appropriate to carry out the purpose of this section and
31 sections 311.332 and 311.334.]

2 [311.338. Any person violating any provisions of sections
3 311.332 to 311.336 shall be deemed guilty of a misdemeanor, and
4 it shall be the duty of the supervisor of liquor control to suspend or
5 revoke the license of any wholesaler violating any of the provisions
of sections 311.332 to 311.336.]

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